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# *Salton Sea Financial Assistance Program*

*California Department of Fish And Game*

*DWR—FloodSAFE Environmental Stewardship and Statewide Resources Office  
(FESSRO)*

*California Natural Resources Agency*

## Guidelines



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## Introduction

The Salton Sea Financial Assistance Program (FAP) Guidelines and Proposal Solicitation Package (PSP) describe the process for providing grant funding to support near-term actions by local agencies and other qualified entities to improve habitat for fish and wildlife at the Salton Sea. It provides the overall scope, priority, and desired outcomes of activities that will receive grant funding under FAP and establishes the process and criteria for selecting proposals and awarding grant funding to applicants.

These guidelines, developed for the California Department of Fish and Game (DFG) and by the California Department of Water Resources (DWR), are posted on the DWR web site (<http://www.water.ca.gov/saltonsea/>). The Guidelines were made available for public review and comment for 30 days. During the public review period, DWR conducted at two public workshops on the draft Guidelines and PSP for interested parties. Following consideration of public comments, DWR finalized the Guidelines and PSP, and can now solicit grant proposals. The final documents are posted on the DWR website above.

## 1. Background

The Salton Sea provides essential habitat for fish and wildlife, and is an important cultural and recreational resource. It has no outlet, and dissolved salts contained in the inflows concentrate in the Sea through evaporation. The salinity of the Salton Sea, which is currently near 1.5 times the salinity of ocean water, is getting increasingly saltier over time. However, reductions in inflows resulting from water conservation, recycling, and transfers are anticipated to lower the level of the Salton Sea, accelerate the rate at which salinity increases, reduce the suitability of habitat for fish and wildlife, and potentially degrade air quality by exposing the Sea's playa which could generate fugitive dust.

In recognition of these current trends and the importance of the Salton Sea ecosystem, the California Legislature enacted legislation in 2003 that directed the California Resources Agency (now the Natural Resources Agency) to prepare a restoration study and a programmatic environmental document to explore ways to restore important ecological functions of the Salton Sea and to develop a preferred restoration alternative. The Salton Sea Ecosystem Restoration Program Programmatic Environmental Impact Report (PEIR) was completed in 2007. The Secretary of the Resources Agency, based on the information contained in the PEIR, recommended a preferred alternative for ecosystem restoration to the Legislature. To date, the Legislature has not provided funding to implement the preferred alternative. In 2010, the Legislature enacted Senate Bill 51 (Ducheny) which established the Salton Sea Restoration Council as a state entity under the Natural Resources Agency to oversee the restoration of the Salton Sea. However, the Legislature has not yet appropriated funds for the Council and is debating eliminating the Council altogether.

In the interim, habitat values at the Salton Sea continue to decline as salinity increases and water levels recede. To address the near-term loss and degradation of habitat during the period prior to implementation of a larger restoration plan, the California Legislature appropriated funds for the purpose of implementing "conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements". DFG was given authority under Fish and Game Code 2932 to pursue this objective. This began in 2009 the Species Conservation Habitat (SCH) project to create approximately 2,400 acres of shallow pond habitat at the Sea to support fish populations which in turn would support piscivorous bird populations. Under the auspices of the SCH project, FAP was conceived as an opportunity for Salton Sea stakeholders to participate in the restoration process using funds provided by Proposition 84, the same fund used to implement the SCH project. FAP will provide grants to eligible applicants (local agencies, nonprofit organizations, tribes, universities, and State and federal agencies) for projects that conserve fish and wildlife within the Salton Sea ecosystem.

## 2. Funding Sources

The Program will be funded through the Salton Sea Restoration Fund, which was established with enactment of the Salton Sea Restoration Act (Chapter 13 of Division 3 of the Fish and Game Code commencing with Section 2930) and funded in part by Proposition 84 (The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006).

The Salton Sea Restoration Act authorizes the following uses of the Salton Sea Restoration Fund (Fish and Game Code Section 2932):

1. Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.

2. Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Fish and Game Code Section 2081.7. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta.
3. Implementation of the preferred Salton Sea restoration alternative.
4. Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

Several of these authorized uses apply only in connection with a preferred alternative. Because the Legislature has yet to authorize a preferred alternative, the Program focuses on the uses identified in section 2 above (conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea). Due to the rapidly changing environment at the Sea and the urgent need to stabilize this habitat, the Program includes activities conducted at the Salton Sea or along its tributaries, and specifically excludes activities on the lower Colorado River or Colorado River delta area.

## 3. Conservation Objectives

Priority will be given to proposals meeting at least one of the following conservation objectives for fish and wildlife at the Sea:

- Habitat creation or enhancement that provides sustainable and functional habitat for the protection of fish and wildlife at the Salton Sea;
- Water quality improvements that would directly contribute to the conservation of fish and wildlife resources at the Salton Sea;
- Research activities that directly resolve data gaps currently acting as impediments to creation and enhancement of fish and wildlife habitat at the Salton Sea;
- Adaptive management experiments that would improve the effectiveness of habitat management and habitat quality for fish and wildlife at existing managed habitats at the Salton Sea.

These four conservation objectives form the basis of the four possible project categories for which applicants must provide information when applying for project funding. Each category is explained below.

### 3.1. Habitat Creation and Enhancement

The primary goal of the Program is the immediate and near-term retention of habitat values for fish and wildlife through creation and enhancement of habitat or habitat features at the Salton Sea. Salinity in the Salton Sea is steadily increasing, and it is anticipated to accelerate substantially after 2017, when water currently flowing to the Salton Sea to mitigate flow reductions will be discontinued in accordance with the Quantification Settlement Agreement of 2003. <sup>1</sup>At that time, salinity in the Salton Sea is expected to rapidly increase and reach the point where most fish resources are no longer viable. Therefore, proposed habitat creation projects must be functional (provide functioning and usable habitat for fish and wildlife) prior to 2017 and continue to be functional as salinity increases after that time.

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<sup>1</sup> California Resources Agency. 2007. *Salton Sea Ecosystem Restoration Program Final Programmatic Environmental Impact Report*.

The creation of habitat on the Salton Sea playa to produce benefits for fish and wildlife was described in the Salton Sea Ecosystem Restoration Program PEIR (2007), and is further supported in the Salton Sea Species Conservation Habitat (SCH) project Draft EIS/EIR (August 2011). Many of the alternatives considered in the PEIR involved the creation of shallow saline water bodies that would support many of the habitat values currently provided by the Salton Sea. The characteristics and configurations in these alternatives may provide some guidance on the types of habitats that would be considered under the Program, although other ideas for meeting the conservation objectives are encouraged. Proposed habitat creation must occur at the Salton Sea or along its tributaries (excluding the lower Colorado River) and provide habitat for one or more fish and wildlife species dependent on the Salton Sea. Priority will be given to proposals that would create or enhance fish and wildlife habitat at greatest risk from near-term increases in salinity or water level declines. The Program will initially focus on the following fish and wildlife:

- Species using the Salton Sea that are listed by the State of California as endangered or threatened, or that have been designated as fully protected or a species of special concern (examples include desert pupfish, *Cyprinodon macularius* and California brown pelican, *Pelecanus occidentalis californicus*)
- Migratory water birds that rely on the Salton Sea as an important migratory stopover or wintering area (examples include eared grebes, *Podiceps nigricollis*, and western sandpiper, *Calidris mauri*)
- Colonial breeding water birds (examples include gull-billed tern, *Gelochelidon nilotica*, and black skimmer, *Rynchops niger*)
- Breeding shore birds (examples include American avocet, *Recurvirostra americana*, and black-necked stilt, *Himantopus mexicanus*)
- Piscivorous birds that rely on the current fish resources at the Salton Sea (examples include American white pelican, *Pelecanus erythrorhynchos*, and double-crested cormorant, *Phalacrocorax auritus*)

DFG is developing shallow, saline ponds at the south end of the Salton Sea, referred to as the SCH. The SCH Project is being developed for the conservation and protection of the fish and wildlife species dependent on the Salton Sea in accordance with California Fish and Game Code Section 2932. Applicants proposing habitat creation similar to the SCH Project are encouraged to become familiar with and incorporate the information available for that project into their proposals; this information is available on the DWR website: <http://www.water.ca.gov/saltonsea/documents/>

## 3.2. Water Quality Improvement

Water quality in the Salton Sea and its tributaries has been identified as one of the impediments to conservation of fish and wildlife resources at the Salton Sea. Under this Program, funding may be provided for actions to improve water quality that are located at the Salton Sea or along its tributaries (excluding the lower Colorado River) and that make a direct and substantial contribution to the conservation of priority fish and wildlife defined above.

## 3.3. Research

To be eligible for funding under this Program, proposed research must demonstrate a linkage to 1) the near-term creation and enhancement of fish and wildlife habitat, or 2) the replacement of habitat values lost as a result of deteriorating conditions at the Salton Sea. The research should be applicable to

conservation of fish and wildlife by reducing the uncertainty regarding the design, structure, and management of created habitats at the Salton Sea.

The applicant may propose any research that meets the goals and objectives of the Program.

Research proposals that build upon existing research will be considered, although it must be clear how the new research will contribute to the near-term establishment of habitat at the Salton Sea. Some examples of research currently funded by DWR and DFG follow:

- **Selenium ecorisk modeling.** A selenium ecological risk model was developed to quantify expected selenium levels in the SCH Project ponds and ecological risk for fish and migratory and resident birds arising from development of the SCH Project at the Salton Sea. The ecological risk assessment evaluated effects from potential future irrigation and water management activities that could affect selenium concentrations in the source water for the SCH Project ponds and included review from recognized experts in the field.
- **Laboratory microcosm studies.** These studies were conducted to determine the temperature and salinity tolerance and the effects of dissolved oxygen at the highest tolerated temperature regime for strains of tilapia that could be introduced into the SCH Project ponds.
- **Selenium management.** As a result of a literature review and selenium workshops sponsored by DWR and DFG, UC Berkeley researchers are proceeding with laboratory and field studies to evaluate the feasibility (through design and management) of constructed wetlands as a tool for selenium management for habitat developed at the Salton Sea. This work is planned through 2012.

### **3.4. Adaptive Management Experimentation**

Funding may be provided for adaptive management experiments conducted at existing managed habitats at the Salton Sea to improve function and management, and provide scientific knowledge applicable to future restoration actions.

Adaptive management in this context means experimental manipulation and monitoring of habitat to evaluate the effectiveness of management actions in producing benefits for fish and wildlife. Adaptive management experiments may also address some of the research questions identified above. The proposed adaptive management must be conducted at existing habitats at the Salton Sea or along its tributaries (excluding the lower Colorado River) and focus on enhancing existing habitat for priority fish and wildlife or filling important data gaps.

## 4. Eligibility Requirements

To receive Program funding, both the applicant and the application must meet eligibility requirements. Eligibility will be determined by an Administrative Review process consistent with the information in these Guidelines. The application must be received on time, post marked no later than 60 days from the date the final PSP was posted on DWR's website.

### 4.1. Eligible Grant Applicants

Any public agency or nonprofit organization as defined in Public Resources Code Section 75005(k) may apply to be grantees. This includes, but is not limited to the following entities:

- Local agencies
- Nonprofit organizations
- Federally-recognized tribes
- Universities
- State agencies
- Federal agencies

Tribes as grantees must either be federally recognized or register as a nonprofit organization (See Appendix A for information related to tribes).

DWR encourages collaboration to enhance the effectiveness of conservation and habitat improvement projects. Parties that wish to collaborate on a grant proposal may elect to use a contractor-subcontractor relationship, a joint venture, a joint powers authority, or other appropriate structure. Grant agreements will be executed with one eligible grantee, which will then provide funding, as appropriate, to its partners that are responsible for implementation of the project(s).

### 4.2. Eligible Grant Proposals

Proposals and projects must comply with the following criteria to be eligible:

1. Must be consistent with one or more of the conservation objectives described above in [Section 3](#) of these Guidelines.
2. Must be located at or influence fish and wildlife habitats at the Salton Sea (excludes the lower Colorado River and Colorado River delta). Research may be conducted outside of the Salton Sea ecosystem, but must have a direct application to the design and structure of created habitats at the Sea.
3. Must meet General Requirements described in [Section 5](#) of these Guidelines.
4. Must be submitted through DWR's Bond Management System (BMS) as described in [Section 6.1](#) of these Guidelines.

## 5. General Requirements

All applicants will be required to comply with the eligibility requirements described below.

### 5.1. CEQA Compliance

Activities funded under Proposition 84 must comply with CEQA, Division 13 (PRC Section 75070 [reference PRC Section 21000 et seq.]). See Appendix A of this document for compliance with CEQA for projects proposed on land owned by Native Americans, web links to CEQA information, and the State Clearinghouse Handbook.

Applications for Program funding must include the current version of the Project's environmental document for the proposed project or demonstration that CEQA would not apply to the proposed work (for example, research). At a minimum, applicants with projects requiring CEQA compliance must submit a completed Initial Study (IS) Checklist as well a completed DWR Environmental Compliance Form, listing their current or planned environmental process. If awarded funding, and the applicant has not completed their CEQA documentation, DWR and DFG will consider the environmental documents as they are completed and decide whether to continue to fund the project.

### 5.2. Data Sharing and Usage

At DFG's request, the successful applicant must make all engineering and research data compiled or obtained for the Project available to the DFG, including without limitation, metadata, images, video, research protocols, and analyses. DFG may utilize these data to support its activities.

### 5.3. Monitoring Requirements

All successful applicants for habitat creation or enhancement and water quality improvement projects will be required to develop a monitoring and adaptive management plan. This plan can be prepared as part of the proposed work. Monitoring and adaptive management plans must cover a minimum period of 5 years from completion of the project. Applicants may include up to 2 years of monitoring costs in their grant application and funding request. The applicant must provide information on how the required monitoring activities will be funded after the initial 2-year period (see Project Specific Information section in the PSP). Any groundwater projects and projects that affect groundwater shall include groundwater monitoring requirements consistent with the Groundwater Quality Monitoring Act of 2001 (California Water Code Part 2.76, commencing with Section 10780 of Division 26). Projects that affect water quality shall include a monitoring component that allows the integration of data into statewide monitoring efforts, including but not limited to the Surface Water Ambient Monitoring Program (SWAMP) carried out by the State Water Board. For the State Water Board's monitoring and reporting requirements, go to:

[http://www.waterboards.ca.gov/water\\_issues/programs/swamp/qamp.shtml](http://www.waterboards.ca.gov/water_issues/programs/swamp/qamp.shtml)

DWR and DFG, in collaboration with the U.S. Geological Survey and the U.S. Bureau of Reclamation recently developed a Monitoring and Assessment Plan for the Salton Sea that provides guidance for future monitoring and assessment actions in support of restoration of the Salton Sea ecosystem. The objectives of this plan are to determine the existing conditions of the Salton Sea ecosystem; establish standards against which data gathered during long-term monitoring can be compared; identify and prioritize existing data gaps and collect data to fill these voids; and store, manage, and make publicly available monitoring data in a timely manner.

Monitoring and adaptive management plans developed under the Financial Assistance Program should be consistent with the guidance provided in the Monitoring and Assessment Plan, including the data

sharing requirements. Applicants should review the guidance provided in this plan prior to submitting a proposal and developing a cost estimate. The Monitoring and Assessment Plan can be viewed at <http://www.water.ca.gov/saltonsea/documents/>

## 5.4. Short- and Long-term Maintenance Requirements

Although the Operation and Maintenance (O&M) activities are not fundable under proposition 84, successful applicants for habitat creation or enhancement and water quality improvement projects must prepare a long-term operation and maintenance plan. The plan must address how the project will be managed and maintained after construction is completed, and who will be responsible for management and maintenance activities. The operations and management plan must address management and maintenance that will take place after the project is completed (usually two to three years from the date of completion) and over the long term (up to 25 years or more) from the date of completion.

## 5.5. Urban Water Suppliers

Applicants and co-sponsors that are water supply agencies, or sub-divisions of water supply agencies, must either have completed an Urban Water Management Plan, or be able to provide evidence that they are not subject to the Urban Water Management Planning Act (California Water Code, Sections 10610 et. seq.).

For additional information regarding the *Urban Water Management Planning Act*, visit the DWR website on the topic at: <http://www.owue.water.ca.gov/urbanplan/index.cfm>

## 5.6. Conflict of Interest and Confidentiality

All participants are subject to State and federal conflict of interest laws, including business and financial disclosure provisions. Applicants are encouraged to seek legal counsel regarding conflict of interest requirements. Applicable statutes include California Government Code Section 1090 and California Public Contract Code Sections 10410 and 10411.

All information contained in grant applications is confidential until the grant awards are announced. All applications will be made public on our website once the draft award list is released.

## 5.7. Labor Compliance and Prevailing Wages Provisions

Applicants must comply with the requirements of Labor Code Sections 1770 et seq. The general prevailing wage determinations can be obtained online from the Department of Industrial Relations at: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>

## 5.8. Contract Indemnity Provisions

Grantees will agree to indemnify the State and its officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, and whether directly or indirectly, arising out of the project, including, without limitation, arising out of post-construction operation and maintenance.

## 6. Application Process

The following explains the overall grant application process from DWR's solicitation through the award of funds. It does not provide details about preparing the Application Packet; this information is provided separately in the PSP.

### 6.1. Solicitation Notice

DWR will solicit grant proposals upon release of the final Guidelines and Proposal Solicitation Package. The final Guidelines and PSP will provide detailed instructions for submitting proposals and specific information on submittal requirements. The final Guidelines and PSP, and solicitation notice will be posted on the DWR website at: <http://www.water.ca.gov/saltonsea/>

Any eligible entity's authorized representatives interested in applying for financial assistance from the Department may register with the Bond Management System (BMS) to be notified of all upcoming solicitations at: <http://www.water.ca.gov/bms>

### 6.2. Applicant Assistance Workshops

DWR will conduct one or more informational workshops on the application requirements for interested parties to address applicants' questions and to provide general assistance to applicants in preparing their grant applications. In addition to the informational workshops, applicants are encouraged to seek assistance from DWR grant program staff to understand grant requirements and complete grant applications.

### 6.3. Project Evaluation and Selection

#### *6.3.1. Administrative Review*

All grant applications will be reviewed by Salton Sea Program staff for eligibility and completeness. Substantially incomplete or ineligible applications will not be evaluated or considered for funding. DFG or DWR may request additional information from applicants after the submittal deadline if minor information is needed to evaluate the merits of the application.

#### *6.3.2. Technical Review*

All complete and eligible grant applications will be evaluated and scored by a Technical Review Panel (TRP) selected by DWR and DFG. Members of the TRP will be selected on the basis of their expertise in one or more of four program categories identified for funding under the Program ([Section 3](#)). Applications will be evaluated using the set of criteria below. Members of the TRP may also conduct one or more site visits during the review process. The TRP will submit the ranked and scored application list along with their review material to a management review team composed of DWR and DFG staff for consideration.

### 6.3.3. Evaluation Criteria

The Technical Review Panel will evaluate the materials submitted by the applicant and score the overall proposal based on the following criteria and weighting. Please refer to the PSP for more information.

Criteria	of 100 total pts
Extent to which the proposed project contributes to achieving Program goals and objectives	35
Qualifications of the applicant	15
Readiness of the proposed project/research	15
Feasibility of successfully completing the proposed project/research	35

### 6.3.4. Funding Recommendations

Following completion of the consensus scoring of all eligible proposals, the Management Review Team will convene to review the technical scores and comments. Recommendations for funding will be based on the evaluations conducted at all previous levels and availability of funds.

Ultimately, the Management Review Team will make recommendations for funding proposals that best meet the Program's current goals. The Management Review Team may recommend funding for proposed projects, in whole or in part, based on information provided in the application on the timing and benefit(s) of project phases. The Management Review Team may take into consideration factors other than score to arrive at the final suite of proposed projects to recommend for funding.

### 6.3.5. Notification of Proposed Funding Recommendations and Public Comment Period

Applicants will be notified of the availability of the Proposed Funding Recommendations, and they will be posted electronically on the Program website at <http://www.water.ca.gov/saltonsea/>.

A 15-day public comment period will follow the notification in order to receive comments concerning the proposed funding recommendations. A summary of comments received during the public comment period will be prepared and made available on the Program's website.

## 6.4. Final Funding Awards

After public comments are considered, the Final Funding Recommendations will be submitted to the Director of DFG for funding approval. The Director of DFG may, at his or her discretion, recommend a package of grants determined to be most responsive to promote implementation of the Program. DFG's Director will approve the final funding list through DFG's existing administrative procedures.

After approval by DFG, all applicants will receive a notification letter of approval or denial, and any additional documentation as determined by the State. When the applicant indicates acceptance of the funding in writing, the applicant will become the grantee. Final award will be subject to the execution of a grant agreement between the State and the grantee.

If the State of California Budget Act for the current year and/or any subsequent years covered under the commitment letter does not appropriate sufficient funds for the grantee's project, the commitment shall be of no further force or effect unless these funds for the project are appropriated. In this event, the State shall have no liability to commit funds whatsoever to the grantee or to furnish any other considerations under this commitment.

## 7. Grant Administration

The process of executing grant agreements will begin as soon as projects are approved by the Director of DFG. DWR, as the administrative agent for DFG, will develop, execute and manage the grant agreements with successful applicants. It will likely take 2 to 6 months to finalize the grant agreements. DWR and/or DFG may also conduct one or more site visits prior to finalizing grant agreements. The agreement must be signed by the grantee and DWR in order for the grant to be awarded. If an approved agreement is not signed by the grantee within 6 months of the award date, the grant may be withdrawn. The grant may be audited annually during the course of the project and for 3 years after the project is completed. The grant administration process will include the following steps for projects that require construction:

1. DWR sends Grant Agreement and materials for grant administration to grantee.
2. Grantee signs and returns all required copies to DWR for signature (a fully executed copy will be returned to the grantee).
3. Grantee submits completed appraisal, purchase documents, etc., for DWR review (acquisition projects only).
4. Grantee commences preliminary work (planning, design, CEQA, etc.) on the project and submits requests for reimbursements, as applicable, to DWR.
5. Grantee submits CEQA compliance documentation to DWR.
6. Grantee may be asked to submit preliminary plans to DWR for review and comments.
7. Grantee submits final site plans, bid documents, and cost estimate (as applicable) for review by DWR before commencing construction, and verification that all required permits are secured.
8. Grantee posts signs at a visible spot on the site acknowledging source of funds.
9. Grantee commences construction work on the project and may submit payment requests to DWR for reimbursement of project expenditures.
10. DWR and/or DFG may schedule periodic onsite visits and require periodic progress reports from the grantee.
11. Grantee completes project and submits project completion packet (to be provided under separate cover) to DWR.
12. DFG and DWR make final project inspection and approve final payment.

Amendments to grant agreements require the approval of all parties. Amendments may address:

- Changes in schedule (such as time extension)
- Changes in the scope of work
- Changes in total budget or transfer of funds between tasks that exceeds 20 percent of the approved budget for either task (less than 20 percent does not require a formal amendment but does require submittal of an updated budget and DWR's program manager's approval)
- Changes to any of the agreement provisions
- Changes in parties to the agreement

### 7.1. Costs Eligible for Reimbursement

**Costs eligible for reimbursement include** the reasonable costs of engineering, design, permit fees, land and easement acquisition, legal fees, preparation of environmental documentation, environmental mitigation, and project implementation. Although grant funds will be disbursed as provided in the agreement to reimburse costs incurred by the grantee, certain costs will not be reimbursed or paid until the following conditions are met:

- For project activities that could affect the environment, the grantee complies with all applicable requirements of CEQA and other environmental laws,
- For project activities requiring permits, the permits are obtained.

**Costs not eligible for reimbursement include**, but are not limited to, the following:

- Costs incurred prior to effective date of a grant agreement with the State, unless agreed to in writing by DWR;
- Operation and maintenance costs;
- Purchase of equipment that is not an integral part of the project;
- Establishing a trust or endowment fund;
- Purchase of water supplies;
- Replacement of existing funding sources for ongoing programs;
- Support of existing agency requirements and mandates;
- Acquisition of property in excess of fair market value. Additionally, the Program will not participate in transactions acquiring property in excess of fair market value.
- Purchase of land in excess of the minimum required acreage necessary to operate the project, as set forth and detailed by engineering and feasibility studies, or land purchased prior to effective date of a grant agreement with DWR; and
- Payment of principal or interest of existing indebtedness or any interest payments unless the debt is incurred after effective date of a grant agreement with DWR, DWR agrees in writing to the eligibility of the costs for reimbursement before the debt is incurred, and the purposes for which the debt is incurred are otherwise reimbursable project costs.

Generally, only work performed after the effective date of the grant agreement will be eligible for reimbursement. Advance funds cannot be provided. Work performed before the full execution of a grant agreement is done at the risk of the applicant and without expectation of reimbursement.

### 7.2. Retention of Funds

DWR will retain 10 percent of all approved payments to assure satisfactory completion of individual items or tasks. The approved completion of items or tasks will be the basis of reimbursement of retained funds. When all work associated with an item or task described in the work plan has been completed to the satisfaction of DWR and DFG and all required deliverables for that item or task have been submitted to and approved by DWR and DFG, the grantee may request payment of any retained funds. DWR

and/or DFG may choose to inspect the site at that time to ensure proper completion of the task. DWR and DFG will retain its right of inspection at any time throughout the term of the grant agreement.

## **7.3. Reimbursement Requests**

State funds or allocations will be paid to grantees in arrears on a reimbursable basis at least quarterly, but no more often than monthly, at DWR's discretion. A progress report and reimbursement request (invoice) will be submitted to DWR for approval and payment. All reimbursement is subject to the availability of funds.

## **7.4. Progress Reports**

The grantee will be required to submit a progress report in sufficient detail to substantiate reimbursable and local cost share expenses along with each invoice. Progress reports shall include the following information: the period covered by the request, description of activities since the previous report, status of the project relative to the progress schedule, an estimate percentage of work completed, records of expenditures, the percentages of State and total funding expended, key issues that must be resolved, and any other information pertinent to the implementation of the project.

DWR will monitor progress and may suspend all payments indefinitely if it appears the grantee is in breach of the agreement to such an extent that ultimate achievement of project objectives may be significantly compromised. If payments are suspended, the grantee will be given 6 months to cure the breach, or the grant agreement will automatically terminate. Decisions to suspend payments may be appealed to the Director of DFG.

## **7.5. Post-completion Report**

Within 90 days after the project is completed, the grantee shall submit a post-completion report that includes the following:

- An executive summary not exceeding two pages;
- Records of expenditures;
- Photographs of the before-project and after-project conditions, if applicable;
- A comparison of the projected benefits versus the measured benefits;
- A comparison of the original schedule and the actual schedule;
- A discussion of problems that occurred during the work and how the problems were resolved;
- Submittal of any required deliverables that have not been submitted previously; and
- A listing of required deliverables submitted previously, with dates of submittal and DWR acceptance.

## **7.6. Audits and Recordkeeping**

The grantee will be required to maintain all records and documents pertaining to a project for 3 years after completion. The grantee may be required to make all records and documents pertaining to the project available for inspection and audit by DWR and/or the State Auditor during normal business hours, both during the project and in the 3 years following.

DWR and/or the State Auditor may audit the records of the project at any time within 3 years after final payment of State funds. DWR may also require grantees to allow a citizen advisory committee to annually audit the project records. In addition, grantees must comply with any additional audit requirements imposed by the Secretary of the Natural Resources Agency in performing the Secretary's obligation to independently audit Proposition 84 funding and annually list expenditures.

## **7.7. Loss of Funding**

The following are examples of actions that may result in a grantee's loss of funding. This does not represent a complete list:

- Grantee fails to execute a grant agreement.
- Grantee withdraws from the grant program.
- Property cannot be acquired at approved fair market value.
- Grantee loses willing seller(s).
- Grantee fails to submit required documentation within the periods specified in the grant agreement.
- Grantee fails to submit evidence of CEQA compliance as specified by the grant agreement.
- Grantee changes project scope without prior approval from the State.
- Grantee fails to complete the project.
- Grantee fails to make data, data analysis or data products available in a timely manner
- Grantee fails to demonstrate sufficient progress.

## Appendixes

### Appendix A - Native American Tribe Notification

PRC §75102 mandates a California Native American Tribe Notification requirement for projects funded with Proposition 84 funds. PRC §75102 states:

*"Before the adoption of a negative declaration or environmental impact report required under Section 75070, the lead agency shall notify the proposed action to a California Native American tribe, which is on the contact list maintained by the Native American Heritage Commission, if that tribe has traditional lands located within the area of the proposed project."*

Native American Tribe Notification will be part of DWR's CEQA review for projects requesting funding under Proposition 84. DWR recommends using the OPR's procedures for tribal consultation for General Plans and Specific Plans as guidance to meeting the Native American Tribe Notification requirement. The notification process may include the following steps:

1. Determine if the proposed project is a project under CEQA.
2. If the project will use a negative declaration or an EIR to comply with CEQA and the CEQA document has not been adopted as of March 1, 2009, tribal notification is required prior to adoption of the CEQA document.
3. To determine which tribes may have traditional lands located within the project area; send a request to the Native American Heritage Commission (NAHC) using the NAHC request form which can be found at the following link: [http://www.nahc.ca.gov/consult\\_request.html](http://www.nahc.ca.gov/consult_request.html). Expect a reply within 30 days.
4. Once tribal information from NAHC is received, notify tribes of the project nature and project location.
5. Allow tribes 90 days to reply to the notification.
6. Solicit input from tribes that respond to the notification.
7. Consider tribal input to the project prior to adoption of a negative declaration or EIR.

The above notification process follows OPR's procedures for tribal consultation for General Plans and Specific Plans. While an IRWM Plan is not a general or specific plan, the methods and considerations for consultation with tribes, may be helpful. Further information on tribal consultation can be found at the following link:

[http://www.opr.ca.gov/programs/docs/09\\_14\\_05%20Updated%20Guidelines%20\(922\).pdf](http://www.opr.ca.gov/programs/docs/09_14_05%20Updated%20Guidelines%20(922).pdf)

Contact information for the NAHC is as follows:

Native American Heritage Commission  
915 Capitol Mall, Room 364  
Sacramento, CA 95814  
Phone: 916-653-4082  
Fax: 916-657-5390  
<http://www.nahc.ca.gov>

## Appendix B - Guidelines for Grantees and Borrowers

The lists below details the documents/records that State Auditors would need to review in the event of a grant or loan being audited. Grantees and borrowers should ensure that such records are maintained for each funded project.

1. Internal Controls
  - a. Organization chart (e.g. Agency's overall organization chart and organization chart for the grant or loan funded Program/Project)
  - b. Written internal procedures and flowcharts for the following:
    - i. Receipts and deposits
    - ii. Disbursements
    - iii. State reimbursement requests
    - iv. Grant or loan expenditure tracking
    - v. Guidelines, policy, and procedures on grant or loan funded Program/Project
  - c. Audit reports of the Agency internal control structure and/or financial statements within the last two years
  - d. Prior audit reports on grant or loan funded Program/Project
2. Grants or Loans
  - a. Original grant or loan agreement, any amendment(s) and budget modification documents
  - b. A listing of all bond-funded grants or loans received from the State
  - c. A listing of all other funding sources for each Program/Project
3. Contracts
  - a. All subcontractor and consultant contracts and related or partners documents, if applicable
  - b. Contracts between the Agency and member agencies as related to the grant or loan funded Program/Project
4. Invoices
  - a. Invoices from vendors and subcontractors for expenditures submitted to the State for payments under the grant or loan
  - b. Documentation linking subcontractor invoices to State reimbursement, requests and related grant or loan budget line items
  - c. Reimbursement requests submitted to the State for the grant or loan
5. Cash Documents
  - a. Receipts (copies of warrants) showing payments received from the State
  - b. Deposit slips (or bank statements) showing deposit of the payments received from the State
  - c. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grants or loans
  - d. Bank statements showing the deposit of the receipts
6. Accounting Records

- a. Ledgers showing entries for or loan receipts and cash disbursements
  - b. Ledgers showing receipts and cash disbursement entries of other funding sources
  - c. Bridging documents that tie the general ledger to requests for grant or loan reimbursement
7. Administration Costs
- a. Supporting documents showing the calculation of administration costs
8. Personnel
- a. List of all contractors and Agency staff that worked on the grant or loan funded Program/Project
  - b. Payroll records including timesheets for contractor staff and the Agency personnel who provided services charged to the program
9. Project Files
- a. All supporting documentation maintained in the project files
  - b. All grant or loan related correspondence